

back and forth—all of them realized that anyone can come down at any moment of inattention and, using the rules, gain a one-time advantage. With all the distinguished leaders, I never saw a single one of them do that, even when over and over again they had an opportunity to do it. Many times when I was chairman of the Agriculture Committee, when I was chairman of Judiciary Committee, when I was chairman of the Foreign Operations Committee, and when I was chairman of a number of others, we would have hotly contested issues and cases where the ranking Member, the only other person on the floor, had to leave the floor for a phone call or something like that. And, of course, I always protected their rights. That is something that has been done. It is the role of the majority leader, of course, to try to move legislation forward. It has always been my feeling, whether being in the majority or in the minority, that the majority leader should do that. I think we can. But I also think everybody should realize that last week was a rather extraordinary week with, first, the services in Houston, and then the services at the National Cathedral, and then the Republicans had a conference where they had to go on Friday. A lot was chopped into that week.

I have already said the three judges which are on the Executive Calendar—those which were actually going to be put over by the Republicans initially in the executive markup—I said to the distinguished Senator from Utah, let us go ahead and vote them out so we can get them on the floor. But also the majority leader may not be aware of the fact—at least from some of his statements—that during 17 months we did get through 100 of President Bush's judges and got all of them confirmed on the floor. I know the distinguished Senator from Utah would like to come close to that record, a record that was not achieved when the Republicans were chairing that committee and when President Clinton was here. I know he would want to try for that now. Of course, I would be happy to go forward on those and vote those three out. There will be rollcall votes. I realize that last year sometimes we had 10 or 12 at a time by voice vote. I think that escaped the attention of the press, the White House, the Republican Senate campaign committee, and others.

I yield the floor.

RESERVATION OF LEADERSHIP TIME

The ACTING PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

EXECUTIVE SESSION

NOMINATION OF MIGUEL A. ESTRADA, OF VIRGINIA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE DISTRICT OF COLUMBIA

The ACTING PRESIDENT pro tempore. The Senate will now resume executive session and the consideration of Executive Calendar No. 21, which the clerk will report.

The legislative clerk read the nomination of Miguel A. Estrada, of Virginia, to be United States Circuit Judge for the District of Columbia Circuit.

Mr. HATCH. Mr. President, of course, there are not going to be any games played. Nobody on this side wants to play games. This is important stuff. We understand there are those on the minority side who do not agree with this nomination. They have a right to not agree. But they have a right to vote against Miguel Estrada if that is what they really think is right.

On the other hand, should there be a filibuster it will be the first filibuster in history against an inferior court, the circuit court of appeals or the district court.

With regard to the 100 nominees that made it through in the last few years, that was a very good record, primarily just for judges. I am more interested in how many are left over. I am more interested in how we reduce the number of holdovers. Let us hope we can do that. I am going to do everything in my power to do it, and I hope I will have the cooperation of those on the minority side in trying to do what is really our job; that is, to put the President's—whoever the President is—nominees through. We always have someone on both sides who wants to slow the process down. We understand that. But hopefully we can get people of goodwill to not slow the process down and to not filibuster this wonderful Hispanic judge named Miguel Estrada.

Mr. President, in that regard, I ask unanimous consent that a Washington Post editorial entitled "Filibustering Judges" be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Feb. 5, 2003]

FILIBUSTERING JUDGES

"Tell Senators: Filibuster the Estrada Nomination!" cries the Web site of People for the American Way. The subject is President Bush's nomination of Miguel A. Estrada to a seat on the U.S. Court of Appeals for the DC Circuit. Democratic senators may not need much encouragement. With the Estrada nomination due to come to the Senate floor today, they are contemplating a dramatic escalation of the judicial nomination wars. They should stand down. Mr. Estrada, who is well qualified for the bench, should not be a tough case for confirmation. Democrats who disagree may vote against him. They should not deny him a vote.

Senators have on occasion staged filibusters on judicial nominees, but none has ever

prevented a lower-court nominee's confirmation, the White House says. And that's good. It's hard enough to get swift Judiciary Committee action and floor votes for judicial nominees. The possibility of a filibuster probably checks rash or overly partisan nominations; one can imagine candidates so wrong or offensive that the tactic would be justified, but a world in which filibusters serve as an active instrument of nomination politics is not the either party should want.

Mr. Estrada's nomination in no way justifies a filibuster. The case against him is that he is a conservative who was publicly criticized by a former supervisor in the Office of the Solicitor General, where he once worked. He was not forthcoming with the committee in its efforts to discern his personal views on controversial issues—as many nominees are not—and the administration has (rightly) declined to provide copies of his confidential memos from his service in government. Having failed to assemble a plausible case against him, Democrats are now arguing that this failure is itself grounds for his rejection—because it stems from his own and the administration's discourteous refusal to arm Democrats with examples of the extremism that would justify their opposition. Such circular logic should not stall Mr. Estrada's nomination any longer. It certainly doesn't warrant further escalating a war that long ago got out of hand.

Mr. HATCH. I would like to take a few moments this morning to respond to some of the allegations that Miguel Estrada lacks support in the Hispanic community. Nothing could be further from the truth.

Young men and women from Mexico, Central and South America, who come to the United States—sometimes with their parents, sometimes without—have helped to build this country. There is no question about it. They have mined our mines. They have built our railroads. They have worked on the roads. They have advanced themselves in education. They are now doctors, lawyers, and filling positions in virtually every walk of life in this country, and rightly so.

They struggled in a foreign country to make a better life, and the gifts they have brought to this Nation are what has made this Nation a great nation. And they still do today. The Hispanic community leaders I have worked with over the years consider Miguel's success as their success. And they know that all young Latinos across the country—whether they live in border town colonia, a barrio in Chicago, or Miami's Calle Ocho—need role models such as Miguel to emulate.

Miguel arrived in this country with his mother at age 14. He lived in a modest home, and his parents worked hard to send him to private schools. There is no crime in that. In fact, many Latino families work two and three jobs just to be able to send their children to private schools, which are usually Catholic schools. That is no crime. In fact, the Catholic schools are among the best schools in this country. I do not blame any parent for wanting to send their children to Catholic schools. They learn a lot of important things in Catholic schools. It is a sign of a Hispanic parent's love and dedication, and it is a manifestation of Latino values at their best.